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# A RISK MANAGEMENT SURVEY REPORT

THE STATE OF MONTANA  
DEPARTMENT OF ADMINISTRATION

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# **A RISK MANAGEMENT**

## **SURVEY REPORT**

**Prepared at**

**the Request of**

**THE STATE OF MONTANA**

**DEPARTMENT OF ADMINISTRATION**

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**August 10, 1990**

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## Introduction

This survey was conducted at the request of the State of Montana, Department of Administration. The survey was designed as a comparative study of risk management programs throughout the country. The goal of the study was to compare existing risk management departments in the hope of producing a report with recommendations for developing risk management programs.

This report is the result of the risk management survey. The survey was conducted by means of a mailed questionnaire and follow-up telephone interviews. The results are organized by category according to each question, first in narrative form, and then in statistical or summary form. Copies will be distributed to the twenty-seven states that participated. The State of Montana acknowledges them in grateful appreciation. They are:

Alabama	Georgia	Michigan	Oregon
Alaska	Hawaii	Minnesota	Pennsylvania
Arizona	Idaho	Missouri	Rhode Island
California	Iowa	Montana	South Dakota
Colorado	Kansas	Nevada	Texas
Delaware	Louisiana	North Dakota	Wyoming
Florida	Maine	Oklahoma	





**QUESTION ONE: What is your risk management staffing pattern and organizational structure?**

The size of individual state risk management departments, not surprisingly, varies. Of the states responding to the survey, the one with the largest department is Louisiana with 130 staff persons. By comparison, Rhode Island has the smallest department with 1.5 staff persons. The average risk management department has about 22 staff persons.

Factors influencing the size of risk management departments vary. Legislative and budgetary constraints often determine how many positions are in a given department. The factors which most often influence size, however, are the number of claims and the functions of departments. States with large numbers of claims naturally require more staff to handle them. Similarly, states with more lines of insurance also require more staff. Ultimately, size follows function.

One function which results in numerous claims is coverage for Workers' Compensation which accounts for half, or more, of all claims in states such as Florida, Missouri, Arizona, Colorado, Louisiana, Kansas, Delaware, Wyoming, and Maine. Workers' Compensation claims are handled in separate departments in Idaho, Montana, and South Dakota.

Other factors influence the size of risk management departments also. For instance, some states such as Delaware and South Dakota contract out for claim services. Accordingly, their risk management departments are smaller. These states list choice, efficiency, and quality control as advantages to contracting out



for services and the resulting small size of their departments. Other states, such as Arizona and Louisiana, prefer to perform all risk management functions in-house. Their risk management departments are therefore larger. Arizona believes that beyond a certain number of claims it is cheaper to hire in-house examiners. Also, a philosophy of encouraging in-house expertise allows for greater efficiency and handling of claims of a sensitive, confidential nature.

In the final analysis, the most critical and frequently cited factors determining the size of risk management departments are enabling legislation, functions and lines of insurance, and number of claims.



# RISK MANAGEMENT REPORT RESPONSE STATISTICS

## QUESTION: Organizational Structure

	<u>MGT</u>	<u>Loss Control</u>	<u>Claims MGT/ Examiners</u>	<u>Risk Analyst</u>	<u>Fiscal</u>	<u>Clerical</u>	<u>Total</u>
<u>State</u>							
AL	4	0	1/1	0	2	8	19
AK	2	0	0/2 *	0	1	2	7
AZ	8	6	3/13	3	3	19	55
CA	6	0	2/0	10	0	8	26
CO	3	1	1/5 **	0	0	2	11
DE	1	0	1/1	0	0	1	3
FL	17	0	3/24 ***	1	15	23	73
GA	10	0	2/10	5	0	8	32
HI	1	2	0	0	0	7	10
ID	3	0	3/3	1	0	3	12
IA	No Risk Management Department.						
KS	2	0	1/6	0	0	2	11
LA	24	16	6/76	4	10	38	136
ME	1	0	0/1	0	0	2	4
MI	Not Available ----->						
MN****	1	0	1/1	0	0	1	3





			Claims MGT/ Examiners	Risk Analyst	Fiscal	Clerical	Total
<u>MGT</u>	<u>Loss Control</u>						

**State**

MO	1	1	1/3	0	0	?	5
MT	.5	0	0	0	0	1.5	2
ND	No Risk Management Department.						
NV	2	Not Available ----->					
OK	1	2	1/1	0	1	4	10
OR	4	0	3/6	9	0	8	27
PA	1	1	1/1	1	0	?	5
RI	1	0	0	0	0	.5	1.5
SD****	1	0	0	0	0	1	2
TX	4	0	1/1	3	1	4	12
WY	1	0	1/1	0	0	2	5

\* Claims Adjustor is the equivalent of Claims Examiner. In Alaska, this position includes Contract Officer.

\*\* In Colorado, four of five claims examiners work solely with Workers' Compensation claims.

\*\*\* In Florida, half of the examiners are Workers' Compensation specialists.

\*\*\*\* Minnesota and South Dakota contract out for some risk management services.

\*\*\*\*\* The average number of staff persons in the risk management departments of the states that responded to this survey is 22.



**QUESTION TWO: Does your risk management department use standard contracts for claims adjustment, retaining expert witnesses, attorneys, actuaries, etc.?**

Many states do not use contracts at all, but hire vendors on a time and expense basis. The rationale for this approach is greater control and to provide an incentive for vendors to produce.

Of the states which do use contracts, most use a standard form of varying length. General terms in most of these contracts provide for inspection and reporting, settlement of disputes and governing law, equal employment opportunity, independent contractor status, non-assignability, performance and impossibility, termination/renewal, payment of taxes, etc. Additional terms in many form contracts provide for indemnity and insurance, scope of work, special terms, conditions, and instructions, cooperation, testimony, payment of travel expenses, billing, audit, etc.

Louisiana and Montana do not use form contracts. They draw up separate contracts for each service provider. While many of the terms are identical to form contracts, they are tailored to each situation.

The advantages of standard form contracts are that they are simpler and quicker to use. However, they may not be as easy to read and understand as individualized contracts.



**RISK MANAGEMENT SURVEY  
RESPONSE STATISTICS**

**QUESTION: Contracts.**

	<u>Type</u>	<u>Standard Form</u>	<u>Length</u>	<u>Additional Terms</u>
<b><u>STATE</u></b>				
AL	Insurance	Yes	4 pages	Services, Travel Expenses, Office Expenses, Photography, Expert Services, Compensation, Cancellation, Exemption, Subordination, Default, Renewal Option (At end of 1 year term)
	Consult	Yes	2 pages	Description of Services, Compensation
	Legal	Yes	1 pages	Defense of Employee, Renewal (After 1 year)
AK	Indemnity	Yes	10 pages	Indemnity & Insurance Performance, Time, Consideration, Renewal Indefinite
AZ	Claims Adjustor	Yes	31 pages	Scope of Work, Special Terms & Conditions, Special Instructions to Offerors
	Attorney	Yes	37 pages	Best Efforts, Cooperation, Testimony, Review of Services, Termination at Will
CA	Not available.			
CO	Not available.			
DE	Does not use contracts.			
FL	Provider	Yes	2 pages	Blanks for Services Rendered & Goods Delivered, Delivery, Payment, Travel/Expenses Renewal Indefinite, Audit





	<u>Type</u>	<u>Standard Form</u>	<u>Length</u>	<u>Additional Terms</u>
<b><u>STATE</u></b>				
FL	Legal Services	Yes	2 pages	Legal Defense, Payment, Travel/Expenses, Termination Guidelines for Attorney's Handling of Liability/Workers' Compensation Claims, Audit
	Claims Services	Yes	9 pages	Scope of Services, Types of Claims, Investigation, Renewal After Three Years, Audit
GA	Does not use contracts.			
HI	Does not use contracts.			
ID	Does not use contracts, but hires on a time and expense basis in order to provide an incentive for vendors to produce.			
IA	Does not have a Risk Management Department.			
KS	Does not use contracts.			
LA	Actuarial Services	No	7 pages	Services Provided Relative to Lines of Insurance, Actuarial Reserve & Premium Analysis & Report, Computer Support, Consideration, Travel Expenses, Billing, Termination Date, Confidentiality, Taxes
	Auditing Services	No	3 pages	Claims Reporting, Consideration, Invoices, Termination Date, Taxes,
	Professional Services	No	3-4 pages	Expert Witness - Investigation/Evaluation, Reports & Testimony, Consideration, Termination Date



	<u>Type</u>	<u>Standard Form</u>	<u>Length</u>	<u>Additional Terms</u>
<b><u>STATE</u></b>				
LA				Attorney - Master Contract, Legal Services Description, Case/Cost Limit, Consideration, Status Reports, Billing, Audit, Termination
ME	Does not use contracts.			
MI	Does not use contracts.			
MN	Not available.			
MO	Not available.			
MT	Legal Services	No	4 pages	Compensation, Cooperation, Termination, Venue
	Claims Adjustor	Yes	5 pages	Scope of Work, Payment, Term, Renewal Annually (3 year total), Records Access, Audit
NV	Not available.			
ND	Does not use contracts.			
OK	Not available.			
OR	Does not use contracts.			
PA	Does not use contracts.			
RI	The Civil Division of the Attorney General's office handles contracts for the Risk Manager.			
SD	Legal Services	No	4 pages	Scope, Payment, Insurance, Limitations, Term
	Claims Administration	Yes	3 pages	Services, Consideration, Cancellation, Term W/Renewal Negotiable, Indemnify, Defend, Hold Harmless, Accounting



<u>Type</u>	<u>Standard Form</u>	<u>Length</u>	<u>Additional Terms</u>
-------------	----------------------	---------------	-------------------------

**STATE**

TX	Does not use contracts.		
----	-------------------------	--	--

WY	Does not use contracts.		
----	-------------------------	--	--





**QUESTION THREE: Does your risk management department have policies, or administrative rules for coordinating functions with state agencies?**

Risk management departments use varying methods for coordinating functions with state agencies. One approach to communicating policies and rules is the manual format used by Alaska, Hawaii, Idaho, Maine, Missouri, Nevada, Oklahoma, and Oregon. These manuals are concise, bound, and professionally printed with graphics included. They are written in clear language, and address topics such as reporting procedures and forms, areas of coverage and exclusion, billing, investigation, legal representation, subrogation, and claims settlement. In states such as Arizona, Colorado, Delaware, Florida, Louisiana, Maine, and Texas statutes determine many or all risk management policies. These statutes address coverage and claims procedures, loss prevention, commercial and self insurance, indemnity and defense, immunity, legal services, adjustment and settlement, and limitations on judgments.

Many states, such as Colorado, Delaware, Florida, and Maine have insurance funds provided for by statute. These statutes create the office administering the fund and the areas of coverage. Also addressed are investment and capitalization of the fund.

Some states with enabling statutes such as Louisiana and Maine have gone a step further by also providing handbooks and manuals for state agencies. These handbooks and manuals are written in language that is clearer and more easily understood



than statutory language.

Another method of coordinating functions is through memos and administrative rules. California uses a manual encompassing such administrative rules, while Pennsylvania, Montana, and South Dakota, use memos to communicate responsibilities to state agencies. These memos and administrative rules cover many of the same topics as the aforementioned manuals, statutes, and handbooks.



**RISK MANAGEMENT SURVEY  
RESPONSE SUMMARIES**

**QUESTION: Policies Or Administrative Rules**

**INDIVIDUAL STATE SUMMARIES**

1. Alabama - departmental guidelines addressing Litigation Management and Claims Reporting.
2. Alaska - manual addressing Claim Reporting Procedures, Workers' Compensation, General and Auto Liability, Property, Marine, Aviation, and Malpractice. Incident Report Forms. Indemnification of State Employees.
3. Arizona - statutes addressing Coverage and Claims Procedure, Loss Prevention, Purchase of/Self Insurance, Limitations, Reporting, Indemnity, Immunity.
4. California - state administrative manual addressing Areas of Coverage, Insurance and Bonds, and Workers' Compensation. Department of General Service's Office Manual addresses Insurance Procurement and Administration.
5. Colorado - statutes addressing Notice, Claims Investigation and Adjustment/Settlement, Legal Services, State Claims Board, Risk Management and Self Insured Property Fund, Defense and Indemnification of Public Employees, Payment and Limitations on Judgments, Insurance, Immunity.
6. Delaware - statutes addressing Coverage, Creation and Duties of State Insurance Coverage Office, and State Self Insurance Fund.
7. Florida - statutes addressing Florida Fire Insurance Trust Fund, Premiums, Coverage, Claims Reporting and Handling.
8. Georgia - manual addressing Self Insurance Coverage.
9. Hawaii - manual addressing Property Damage or Loss, Personal Injury, Claims Procedure and Standard Forms (Including Incident Reports).
10. Idaho - Risk Management Handbook addresses Policies, Billing, and Loss Reporting. The handbook also contains an introduction section.
11. Iowa - does not have a Risk Management Department.
12. Kansas - no policies or administrative rules.





13. Louisiana - catalog of Insurance Coverage and Services, Exposure Reporting Manual, statutes addressing Insurance, Public Contracts, Judicial Procedures, and Civil Codes.
14. Maine - statutes addressing Fund Administration Investment and Capitalization, Immunity and Limitations, Notice, Defense and Indemnification of Employees, Payment of Claims. Handbook for Insurance and Claims Procedures.
15. Michigan - no policies or administrative rules.
16. Minnesota - no policies or administrative rules.
17. Missouri - in process.
18. Montana - Montana Operations Manual addresses Coverage and Exclusions along with Reporting Procedures.
19. Nevada - State Administrative Manual addressing Coverage, Premiums, Inspections, Claims, Safety and Loss Control.
20. North Dakota - statute addressing State Employee Defense.
21. Oklahoma - policy manuals addressing Coverage, Loss Prevention, Selection of Insurance, Health and Safety of Public Employees, Reporting, Investigation, Legal Representation, Subrogation, Claims Settlement and Payment.
22. Oregon - policy manual addressing Coverage and Exclusions, Risk Control, Claims, Settlement.
23. Pennsylvania - management directives addressing Defense of Suits, Agency Insurance Coordinators, Reporting of Employee Liability Claims, Safety and Loss Prevention, Self Insurance Program.
24. Rhode Island - does not have administrative guidelines or policies for state agencies.
25. South Dakota - has established the Public Entity Liability Pool (PELP) to provide coverage for state employees. A memo addresses corresponding reporting responsibilities of state employees. Forms are available.
26. Texas - statute addressing Risk Management Activities, Exposure and Loss Reports, Interagency Contracts.
27. Wyoming - administrative rules addressing Coverage, Obtaining Coverage, Reporting, Notice, Notary Public Bonds.



**QUESTION FOUR: Does your risk management department have instructions or checklists for state agencies to follow to insure that claims are promptly and thoroughly investigated?**

This question is a variation of the proceeding question regarding policies. It seeks information contained in the manuals and statutes already mentioned. This question focusses more specifically on the policies pertaining to reporting and investigation.

Colorado uses a unique method of providing state agencies with instructions for submitting claims. It is two-fold. First, instructions are printed on the reverse side of the incident report form. Secondly, a most asked question and answer sheet describes reporting and claims procedures.

Other states such as Alaska, California, Louisiana, Maine, Missouri, and Oklahoma devote all or part of the manuals already indicated to claims reporting.\* These manuals outline in detail the steps to follow in the event of accident, injury, or damage in any area of coverage. Typically, important telephone numbers, required forms, and reporting procedures are covered.

Other states distribute procedures in memo form. Some of these states question, however, whether these memos are read or followed.

\*The states that have developed manuals are willing to share them. A list of contact persons is included in this report.



**RISK MANAGEMENT SURVEY  
RESPONSE SUMMARIES**

**QUESTION: Investigation Instructions Or Checklists**

**INDIVIDUAL STATE SUMMARIES**

1. Alabama - does not have written instructions or checklists.
2. Alaska - uses a Claims Reporting Procedures manual that outlines steps to take in the event of accident, injury, and damage claims for each area of coverage. These procedures provide detailed information regarding accident reports such as the type of information necessary, additional reports (doctors, or insurance estimates) that are required. The manual also includes a list of coverage and typical claims along with a claims directory.
3. Arizona - reporting and claims procedures are covered by statute. No written instructions or checklists.
4. California - general reporting procedures are contained within the Department of General Services, Office of Insurance and Risk Management Office Manual, Insurance and Administration Section. The policy covers claims submission, review, and activity including suit. Investigation and insurance are also covered.
5. Colorado - has written instructions on the backside of an incident report form, and uses a question/answer format to describe the reporting and claims procedure.
6. Delaware - does not have written Instructions or checklists.
7. Florida - has written procedures for filing property claims, but handles other claims informally.
8. Georgia - not available.
9. Hawaii - has distributed a checklist attached to an explanatory memo. The checklist covers Liaison, Confidentiality, Fact Investigation, Evidence Preservation, Recommendation.
10. Idaho - uses an accident loss reporting form which is placed in the glove box of all state vehicles and offices. Agencies contact the Department of Administration to submit forms, or for claims that don't fit forms.
11. Iowa - does not have written instructions or checklists.
12. Kansas - does not have written instructions or checklists.





13. Louisiana - has distributed a printed catalog and manual that detail exposure and claims reporting procedures by area of coverage.
14. Maine - uses an Insurance And Claims Procedures Manual that outlines each area of coverage and procedures for reporting loss or injury. These procedures include a contact person, telephone number, and other information pertinent to each area of liability.
15. Michigan - does not have written instructions or checklists.
16. Minnesota - does not have written instructions or checklists.
17. Missouri - uses a Risk Management manual in which it outlines who to contact for loss or injury for each risk covered.
18. Montana - does not have written instructions or checklists.
19. Nevada - is currently revising their tort claims reporting procedures and will require state agencies to report, via an Incident Report, accidents or events that may give rise to liability.
20. North Dakota - no risk management department.
21. Oklahoma - uses a Risk Management manual which provides instructions for reporting loss or injury for each area of coverage. All reports and information are sent to the Risk Management Department.
22. Oregon - covers claims generally by providing definitions and descriptions of the department's response to claims.
23. Pennsylvania - does not have written instructions or checklists.
24. Rhode Island - does not have written instructions or checklists.
25. South Dakota - describes in memo fashion the forms to be used to report accidents which may result in a claim.
26. Texas - currently in development.
27. Wyoming - does not have written instructions or checklists.





**QUESTION FIVE: How does your state insure the following risks:**

**Responses to this question are contained within the accompanying self explanatory chart. (See next page)**

**\* Abbreviation Key For Chart Located On Page 21.**



# RISK MANAGEMENT SURVEY RESPONSE STATISTICS

## QUESTION: Risk Insurance - Self or Commercial Deductible

	<u>Property</u>	<u>Auto</u>	<u>Aircraft</u>	<u>I &amp; C</u>	<u>E &amp; O</u>	<u>MP</u>	<u>CR</u>
<u>State</u>							
AL	S \$250	S N	C Varies	S N	S	S&C	S
AK	S \$1m.	C	S \$500,000 \$2.5m.Cat.	C \$5m.	C	C	S
AZ	S \$100 Excess -	S N	C	S			
	C \$25,000						
CA	S DNA						
CO	C \$15,000	S DNA	N	S			
DE	S \$500	S \$500	C 3%	Constitutional Sovereign Immunity			
FL	S&C DNA	S	C	S			
GA	S \$300,000	C N	C	S			
HI	C \$250,000 \$4m.	S&C \$1m.	S DNA	S	S \$1m. N	S&C	S



	<u>Property</u>	<u>Auto</u>	<u>Aircraft</u>	<u>I &amp; C</u>	<u>E &amp; O</u>	<u>MP</u>	<u>CR</u>
<u>State</u> <b>ID</b>	S&C DNA ----->	S	C	S ----->			
<b>IA</b>	S S&C	S	C	S ----->			
<b>KS</b>	S&C DV ----->	S&C	C	S DNA	S DNA	C \$1,000	S
<b>LA</b> <b>Primary</b>	S \$250	S N	C 15%	*S -----> N ----->			
<b>Excess</b>	C N	C N	N N	C N			
* Louisiana also carries special insurance for the Superdomes.							
<b>ME</b>	C \$1m.	S \$500	C \$50,000	S -----> N ----->		\$1,000	
<b>MI</b>	S N ----->	C	C	S ----->			
<b>MN</b>	C DV	S \$250	C DV	S -----> N ----->			
<b>MO</b>	S N	S N	C \$50 to \$250	S -----> N ----->			
<b>MT</b>	S to \$150,000  C above \$150,000	S	C	S	S	S	S
<b>NV</b>	C \$200,000	S \$100	C \$1,000	S -----> N ----->			



	<u>Property</u>	<u>Auto</u>	<u>Aircraft</u>	<u>I &amp; C</u>	<u>E &amp; O</u>	<u>MP</u>	<u>CR</u>
<u>State</u>							
ND	S \$250	C -----> DNA ----->					
OK	S \$1,000 to \$20,000	S N	C N	S -----> ----->			
	C \$100,000						
OR	S \$500 to \$1,000	S \$500	N	S -----> N ----->			
PA	S -----> \$1,000 N ----->						
RI	C \$75,000	C N	C	S	S	S&C	S
SD	C \$2,500	S N	C	S -----> ----->			
TX	S -----> N ----->						
WY	C \$150,000	S N	C	S -----> ----->			

#### ABBREVIATION KEY

I&C	=	Injury and Casualty	S&C	=	Self and Commercial Insurance
E&O	=	Errors and Omissions	N	=	No Deductible, or No Insurance
MP	=	Malpractice	DNA	=	Deductible Not Available
CR	=	Civil Rights	DV	=	Deductibles Vary
S	=	Self Insured	m.	=	Million
C	=	Commercially Insured	Cat.	=	Catastrophe





**QUESTION SIX: Does your state have a written policy or procedure that addresses the duty to defend tort claims and/or the indemnification of state employees?**

Virtually every state indemnifies and defends its employees to some extent against claims arising from acts or omissions of the employee within the scope and course of employment. This duty arises from statute. Hawaii's statute does not address indemnification, and uses permissive rather than mandatory language in addressing defense of public employees.

In Alaska, the duty to defend does not extend to employees against whom claims arise from intentional acts or willful misconduct, or who are otherwise covered by a collective bargaining agreement. In Oklahoma, employees may choose between the attorney general and agency counsel for legal representation.

Many states employ other variations in their statutes. For instance, California calls for an employee's good faith cooperation in their defense. Kansas's statute creates a committee that oversees procurement of liability insurance for employees, while Minnesota's statute provides for payment of employees' liability insurance premiums. Missouri's statute provides for indemnification through the State Legal Defense Fund, and several other states limit their liability. In Pennsylvania and South Dakota, the duty to defend and indemnify public employees is set out in policy memos that address defense of agencies and coverage limits for employees which include defense costs.



**RISK MANAGEMENT SURVEY  
RESPONSE SUMMARIES**

**QUESTION: Policy for Indemnification or Defense of Employees**

**Individual State Summaries**

1. Alabama - statute provides for insurance coverage for negligent, wrongful acts of state employees or agents through the finance director with the advice of the insurance commissioner and the attorney general.
2. Alaska - policy provides for legal defense and indemnifies state employees against judgments incurred for injuries to others during the performance and within the scope of the employee's duty, if the employee is not otherwise covered by a collective bargaining agreement. Intentional acts and willful misconduct are not defended, nor indemnified.
3. Arizona - statute providing for the procurement of insurance coverage for employees against liability for acts or omissions while acting within the scope of employment. The statute also provides for the defense of employees.
4. California - statute provides for the defense and indemnification of public employees against any claim arising from acts or omissions occurring within the scope of his/her employment, and calls for the employee's good faith cooperation.
5. Colorado - statute provides for the defense of public employees and payment of judgments against them when the suit or injury arises as the result of an act or omission of the employee during the performance of duties within the scope of employment.
6. Delaware - statute provides for indemnification, defense and costs of suit actually and reasonably incurred by public officer or employee.
7. Florida - no written policies, but governed by statutory requirements.
8. Georgia - statute provides for purchase of liability insurance for public officers and employees generally.
9. Hawaii - statute provides that attorney general may defend employees against liability for acts or omissions of the employee acting within the scope of employment. The statute does not provide for indemnification.
10. Idaho - statute creates obligation to defend public





employees for all activities that arise out of the course and scope of employment and are committed without malice or criminal intent. Policy provides for manner in which Risk Management Department defends claims.

11. Iowa - not available.
12. Kansas - statute provides that "committee" may purchase liability insurance to protect employees against liability for injuries resulting from the tortious conduct of employees arising from the course of their employment. The statute also provides for the defense of employees.
13. Louisiana - statutes provide for limitation on state's liability, and procurement of insurance coverage for officials and employees through commercial carriers, self insurance funds, or interlocal risk management programs.
14. Maine - statute provides for both the indemnification and defense of employees against personal liability that arises out of an act or omission occurring within the course and scope of employment.
15. Michigan - statute provides that a state agency may defend and indemnify employees of governmental agencies.
16. Minnesota - statute provides for payment of employee's liability insurance premiums.
17. Missouri - statute provides for defense of employees by the attorney general, and indemnification through the State Legal Expense Fund therein created.
18. Montana - statute provides for the defense and indemnification of public employees against liability arising from acts or omissions within the course and scope of employment.
19. Nevada - statute provides for defense of employees by attorney general upon written request, and the act or omission is done in good faith and is within course and scope of public duty or employment. Attorney general may decide not to tender defense, or to employ special counsel. If attorney general does not defend an employee who incurs expenses for his/her own defense, and the acts or omissions of the employee are judicially determined to have occurred within the employee's course and scope of duty, then the state may be held liable for the employee's legal expenses. The statute also provides for the indemnification of employees.
20. North Dakota - statute provides for the defense of employees



against claims for liability arising from act or omission occurring during course of employment, if employee provides complete disclosure and actions complained of occurred within the scope of employment.

21. Oklahoma - manual provides for a choice of legal representation by agency legal counsel or the attorney general in representing the state against a claim for liability arising out of employee's conduct.
22. Oregon - statute provides for the indemnification and defense of public employees against claims of liability arising from the conduct of the employee, unless the claim is rejected because the employee's act was committed maliciously or with an intent to cause unlawful damage or injury or with gross recklessness.
23. Pennsylvania - management directive provides according to statute for the defense of public employees, and indemnification by the agency that employs the employee.
24. Rhode Island - statute provides for state authority as to whether or not it will defend employees, and indemnify employees if a judgment is entered against them up to \$50,000.
25. South Dakota - memo describes right and duty to defend claims for damages covered, and coverage limit includes defense costs.
26. Texas - not available.
27. Wyoming - statute provides that public employees shall be defended and indemnified against any claim arising out of alleged acts or omissions occurring within the scope of the employee's duty.





**QUESTION SEVEN:** Does your state allow agencies to obtain commercial bonds for notary publics, or are they centrally procured through your risk management department?

Approximately half of the respondent states procure bonds for notary publics centrally, many through their risk management departments. Several states allow agencies to procure them on their own, while other states are more creative in their approach. For example, notary publics in Arizona purchase their own bonds and are reimbursed by the state. In Delaware, the state self insures notary publics. In many states public notaries are covered under blanket bonds for all public employees. In North Dakota, bonds for notary publics are procured through a state run bonding fund. There does not seem to be a clear consensus as to which method of procuring bonds for notary publics is the favored choice. Rather, the method which states use is largely a matter of choice.



# **RISK MANAGEMENT SURVEY RESPONSE STATISTICS**

**QUESTION: Procurement of commercial bonds for notary publics.**

<b>PROCURED:</b>	<b><u>By Agency</u></b>	<b><u>Centrally</u></b>	<b><u>Other</u></b>
<b><u>State</u></b>			
AL			Blanket Bond Commercially Obtained
AK		X	Blanket Public Employee Bond
AZ			Individually and reimbursed
CA		X	
CO		X	Risk Management Department
DE			Self Insured
FL	X		
GA	Not Available.		
HI	X		
ID		X	Risk Management Department
IA			Blanket Bond For All Public Employees
KS		X	
LA			Self Insured Under Employee Bonds



<b>PROCURED:</b>	<b><u>By Agency</u></b>	<b><u>Centrally</u></b>	<b><u>Other</u></b>
<b><u>State</u></b>			
<b>ME</b>		<b>X</b>	<b>Risk Management Department</b>
<b>MI</b>	<b>X</b>		
<b>MN</b>	<b>X</b>		
<b>MO</b>	<b>X</b>		
<b>MT</b>	<b>X</b>		
<b>NV</b>			<b>Commercially</b>
<b>ND</b>		<b>X</b>	<b>State Run Bonding Fund - Fidelity Bond Only For All Government Employees</b>
<b>OK</b>	<b>X</b>		
<b>OR</b>		<b>X</b>	<b>Risk Management Department</b>
<b>PA</b>		<b>X</b>	<b>Risk Management Department</b>
<b>RI</b>		<b>X</b>	<b>Fidelity Bond For All Public Employees Procured Through Risk Management Department</b>
<b>SD</b>	<b>X</b>		
<b>TX</b>	<b>Not Available.</b>		
<b>WY</b>		<b>X</b>	



## SUMMARY

While several states have well developed, sophisticated risk management programs, several other states have fledgling programs. The key issues facing the states with developing programs are staffing and policy development.

The staff size of risk management departments most often is determined according to function and number of claims. The number of administrative, support, and clerical staff may be adjusted to correspond to the number of examiners required to handle the number of claims. Workers' Compensation generates enough claims to justify keeping this area separate from risk management departments in the states that are currently doing so. In states where worker's compensation is included, the risk management department requires large staffing patterns.

The second issue facing developing risk management programs which surfaced in this survey is the need to develop policies and procedures that can be clearly communicated to state agencies. The manual format is the clearest, most attractive and concise response to this need. Louisiana, Maine, Missouri, and Oklahoma each have excellent examples of professionally printed manuals. (These states are willing to serve as resources for developing programs - see attached list for names and addresses of contact persons) For states where printed manuals are cost prohibitive, in-house word processors and computer graphics (Wordperfect macros are well suited for this purpose) are a viable alternative. Colorado, Florida, Idaho, and Oregon have excellent





examples of manuals produced in-house.

Whether manuals are professionally printed or produced in-house, all share certain common ingredients. They are easy to read, and provide detailed information pertaining to coverage, reporting, investigation and settlement in a simple, clear, and concise format.

One topic which should be addressed in a policy manual is the state's duty to defend and indemnify employees. Because this duty is statutory, risk managers are not in a position to create policy. Therefore, risk managers should write policies that reflect statutory provisions, and distribute these policies to employees so that responsibilities are clear.

The remaining issues addressed in this survey, contracts, lines of insurance, and bonds for notary publics, are either self explanatory or a matter of choice. Therefore, no specific conclusions are drawn from the responses to the questions pertaining to these issues. Rather, readers are encouraged to review the information in deference to their own programs, make comparisons to other programs, and draw their own conclusions.

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**SURVEY OF STATE  
RISK MANAGEMENT PROGRAMS  
APPENDIX A**

1. What is your risk management department staffing pattern and organizational structure? (Please forward a copy of your organizational chart)

2. Does your risk management department use standard contracts for claims adjustment, retaining expert witnesses, attorneys, actuaries, etc.? (Please forward sample copies)

Yes\_\_\_\_\_ No\_\_\_\_\_ (Please check one)

3. Does your risk management department have policies, or administrative rules for coordinating functions with state agencies? (Please forward copies)

Yes\_\_\_\_\_ No\_\_\_\_\_

4. Does your risk management department have instructions or checklists for state agencies to follow to insure that claims are promptly and thoroughly investigated? (Please forward copies)

Yes\_\_\_\_\_ No\_\_\_\_\_ (Please check one)

5. How does your state insure the following risks: (Check One & State Amount)

<u>Risk</u>	<u>Self</u> - <u>Deductible</u>	<u>Commercial</u> - <u>Deductible</u>
Property	_____	_____
Automobile	_____	_____
Aircraft	_____	_____
Personal Injury	_____	_____
Errors	_____	_____
& Omissions	_____	_____
Malpractice	_____	_____
Civil Rights	_____	_____

6. Does your state have a written policy or procedure that addresses the duty to defend tort claims and/or the indemnification of state employees? (Please forward copies)

Yes\_\_\_\_\_ No\_\_\_\_\_

7. Does your state allow agencies to obtain commercial bonds for notary publics, or are they centrally procured through your risk management department?

8. Please indicate any other information which you feel may be helpful. Thank you for your response.



**RISK MANAGEMENT SURVEY  
RESONSE STATISTICS  
Appendix B**

**QUESTION: Organizational Structure**

	<u>MGT</u>	<u>Loss Control</u>	<u>Claims MGT/ Examiners</u>	<u>Risk Analyst</u>	<u>Fiscal</u>	<u>Clerical</u>	<u>Total</u>
<b><u>State</u></b>							
1. AK	2	0	0/2	0	1	2	7
2. AZ	8	6	3/13	3	3	19	55
3. CO	3	1	1/5	0	0	2	11
4. ID	4	0	2/2	1	0	3	12
5. MT	.5	0	0	0	0	1.5	2
6. OK	1	2	1/1	0	1	4	10
7. OR	4	0	3/6	9	0	8	27
8. SD	1	0	0	0	0	1	2
9. TX	4	0	1/1	3	1	4	12
10. WY	1	0	1/2	0	0	2	6

\* South Dakota contracts with a private firm for Risk Management Services.

\*\* North Dakota does not have a Risk Management Department.

\*\*\* The average number of staff in the Risk Management Departments of Montana's western neighbors is approximately 14.

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